

Minnesota Attorney General: Administrative Rules Proceedings

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DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: March 26, 1991

TO: ROBERT McCARRON
MPCA

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General mjc

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Financial Assurance for Solid Waste Disposal Facilities

The above-referenced rule has been approved as to its legality by the Attorney General on March 25, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sc

cc: Dwight Wagenius
William Brown, Chief Judge
MaryAnn Hruby

Pollution Control Agency

Adopted Permanent Rules Relating to Financial Assurance for Solid Waste Disposal Facilities

Rules as Adopted

7035.2685 COST ESTIMATES FOR CLOSURE, POSTCLOSURE CARE, AND CORRECTIVE ACTION.

Subpart 1. **Cost estimate requirements.** The following provisions apply to cost estimates.

A. The owner or operator shall make a written estimate, in current dollars, of the cost of closing the facility in accordance with part 7035.2625 and applicable closure requirements in part 7035.2635. The estimate must be calculated according to subitems (1) and (2).

(1) The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

(2) An owner or operator who establishes a trust under part 7035.2705 or 7035.2715 or a dedicated long-term care trust fund under part 7035.2720 may make the closure cost estimate in present value terms, provided that interest earned from investment becomes part of the fund.

The method used to calculate a present value for closure cost estimates must have the following form:

$$P = \frac{F}{(1 + i)^n}$$

in which: P = the present value,
F = the estimated cost of facility closure as calculated under subitem (1),
i = the interest rate, and
n = the time period in which the design capacity of the facility is filled, expressed as the number of years after the date on which the cost estimate is made.

The interest rate used must be the Federal Reserve Bank discount rate in effect at the Federal Reserve Bank in Minneapolis, Minnesota.

B. The owner or operator of a facility subject to postclosure monitoring or maintenance requirements shall make a written estimate, in current dollars, of the annual cost of monitoring and maintenance of the facility in accordance with the applicable postclosure requirements in part 7035.2645. The estimate must be calculated according to subitems (1) and (2).

(1) The owner or operator must calculate the postclosure cost estimate by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under part 7035.2655. The postclosure cost estimate must include a contingency element that accounts for inflation expected to occur after site closure.

(2) An owner or operator who establishes a trust under part 7035.2705 or 7035.2715 or a dedicated long-term care trust fund under part 7035.2720 may make the postclosure cost estimate in present value terms, provided that interest earned from investment becomes part of the fund.

A present value must be reported for each year of the postclosure care period. The time periods used must begin the year after facility closure. The method used to calculate a present value must have the following form:

$$P = \frac{F}{(1 + i)^n}$$

in which: P = the present value,
F = the estimated cost of postclosure care and maintenance during the year in which cost will be incurred as calculated under subitem (1),
i = the interest rate, and
n = the time period in which the cost will be incurred, expressed as the number of years after the date on which the cost estimate is made.

The interest rate used must be the Federal Reserve Bank discount rate in effect at the Federal Reserve Bank in Minneapolis, Minnesota.

[For text of item C, see M.R.]

[For text of subps 2 and 3, see M.R.]

STATE OF MINNESOTA
DEPARTMENT OF
FILED
MAR 25 '91
Secretary of State

APPROVED AS TO FORM AND LEGALITY

March 25 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 25 1991 3:55 P.M.

Joan Anderson Growe
Secretary of State

3/10
MJC

RULE REVIEW CHECKLIST

File No. 1805
DATE RECEIVED 3-12-91
REVIEW DATE 3-21-91
DUE DATE 3-26-91
(DIS)APPROVED 3-25-91
WITHDRAWN _____

Docket No. 05 0009 0696
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 3-14-91
REVISOR (DIS)APPROVED 3-19-91
FILED W/SEC. OF STATE 3-25-91
RETURNED TO AGENCY 3-26-91

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
June 11, 1990 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
October 25, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
116.07 subd 4 Statutory Authority
✓NA Small Business Statement
NA Expenditure of public money statement
10-25-90 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Nov 9, 1990 Dated 30/25 days before adoption Notice of Extension Dec 7, 1990
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
November 13, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
Feb 26, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
February 26, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Dwight Wagness Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Financial Assurance for Solid Waste Disposal Facilities

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 7035

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Pollution Control Agency

Proposed Permanent Rules Relating to Financial Assurance for Solid Waste Disposal Facilities

Rules as Proposed

7035.2685 COST ESTIMATES FOR CLOSURE, POSTCLOSURE CARE, AND CORRECTIVE ACTION.

Subpart 1. **Cost estimate requirements.** The following provisions apply to cost estimates.

A. The owner or operator shall make a written estimate, in current dollars, of the cost of closing the facility in accordance with part 7035.2625 and applicable closure requirements in part 7035.2635. The estimate must be calculated according to subitems (1) and (2).

(1) The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

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i = the interest rate, and
n = the time period in which the design capacity of the facility is filled, expressed as the number of years after the date on which the cost estimate is made.

Approved by Revisor

The interest rate used must be the Federal Reserve Bank discount rate in effect at the Federal Reserve Bank in Minneapolis, Minnesota.

B. The owner or operator of a facility subject to postclosure monitoring or maintenance requirements shall make a written estimate, in current dollars, of the annual cost of monitoring and maintenance of the facility in accordance with the applicable postclosure requirements in part 7035.2645. The estimate must be calculated according to subitems (1) and (2).

(1) The owner or operator must calculate the postclosure cost estimate by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under part 7035.2655. The postclosure cost estimate must include a contingency element that accounts for inflation expected to occur after site closure.

(2) An owner or operator who establishes a trust under part 7035.2705 or 7035.2715 or a dedicated long-term care trust fund under part 7035.2720 may make the postclosure cost estimate in present value terms, provided that interest earned from investment becomes part of the fund.

A present value must be reported for each year of the postclosure care period. The time periods used must begin the year after facility closure. The method used to calculate a present value must have the following form:

$$P = \frac{F}{(1 + i)^n}$$

in which: P = the present value,
F = the estimated cost of postclosure care and maintenance during the year in which cost will be incurred as calculated under subitem (1),
i = the interest rate, and
n = the time period in which the cost will be incurred, expressed as the number of years after the date on which the cost estimate is made.

The interest rate used must be the Federal Reserve Bank discount rate in effect at the Federal Reserve Bank in Minneapolis, Minnesota.

Approved by Revisor _____

[For text of item C, see M.R.]

[For text of subps 2 and 3, see M.R.]

Approved
by Revisor _____

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of Proposed
Amendments to Rules Governing
Financial Assurance for Solid
Waste Land Disposal Facilities

STATEMENT OF NEED AND REASONABLENESS

Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155-3898

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of Proposed
Amendments to Rules Governing
Financial Assurance for Solid
Waste Land Disposal Facilities

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The amendments proposed all relate to financial assurance for solid waste land disposal facilities. Specifically, the amendments change parts of Minn. Rules pt. 7035.2685 COST ESTIMATES FOR CLOSURE, POSTCLOSURE CARE AND CORRECTIVE ACTION. This rule sets procedures for calculating the present value of estimated costs. The estimates are used to determine the levels of financial assurance that must be met by solid waste facility owners and operators. The rule to be amended was published in the State Register on November 7, 1988. This was a part of amendments to a group of regulations generally referred to as the solid waste rules. This entire body of rules sets requirements for the location, design, construction and operation of solid waste management facilities.

This statement is divided into eight parts. After this introduction, Part 2 presents the legal and historical background of the financial assurance rules. Part 3 presents the Minnesota Pollution Control Agency's (hereinafter "Agency") explanation of the need for the proposed rule amendments. Part 4 presents the Agency's explanation of the reasonableness of the proposed rules. Part 5 presents the Agency's considerations of small business impacts, pursuant to Minn. Stat. § 14.115 (1988), Small Business Considerations in Rulemaking. Part 6 presents the Agency's analysis of the economic impacts of the proposed rule amendments, pursuant to Minn. Stat. § 116.07, subd. 6 (1988), Pollution Control Agency, Exercise of Powers. Part 7 presents the Agency's analysis of the impacts of the proposed rule amendments on agricultural lands, pursuant to Minn. Stat. § 14.11 (1988), Agricultural Land. Part 8 presents the Agency's conclusion regarding adoption of the rule amendments.

II. LEGAL AND HISTORICAL BACKGROUND OF THE FINANCIAL ASSURANCE RULES

The Minnesota legislature in 1969 amended the Agency's powers to add control of solid waste disposal methods and practices. Minn. Laws 1969, ch. 1046. The legislature directed the Agency to adopt standards and regulations regarding solid waste. Minn. Laws 1969, ch. 1046, section 6 (amending Minn. Stat. § 116.07, subd. 4). This solid waste authority in chapter 116 was added to the Agency's previous, more general, powers under chapter 115, the Water Pollution Control Act. The Agency's general powers encompass administration and enforcement of all laws relating to the pollution of any of the waters of the state and the establishment or amendment of standards and regulations designed to prevent, control, or abate water pollution. Minn. Stat. § 115.03, subd. 1.

Minn. Stat. § 115.03, subd. 1(e) grants the Agency the following powers:

> To adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for other equipment and facilities;. . .

The power to adopt rules governing solid waste is given in Minn. Stat. § 116.07, subd. 4 (1988), as follows:

> Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. . . . Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or

> conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste . . . and the deposit in or on land of any other material that may tend to cause pollution.

The 1984 legislature passed a law that related specifically to financial assurance:

> The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 20 years after closure, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules is a condition of obtaining or retaining a permit to operate the facility.

Minn. Stat. § 116.07, subd. 4h (1984).

The Agency in 1984 began work on development of the required rules. Draft rules were distributed for review and comment to a list of interested persons. The rule development period continued for the next three and a half years. The proposed rules were finalized in the winter of 1987 and published in the State Register on March 7, 1988. Administrative hearings on the rules were conducted throughout the state during May and June of 1988. The Agency Board adopted

final rules in September of 1988. The final rule publication was November 7, 1988.

The 1989 legislature passed a law that had an effect on both rule administration and on development of new rules.

> A mixed municipal solid waste disposal facility that is open to the public and stops accepting waste before July 1, 1990, is exempt from Minnesota Rules, parts 7035.2665 to 7035.2805, relating to financial assurance requirements. . . .
>
> The pollution control agency shall study additional alternatives within the financial assurance requirements in Minnesota Rules, parts 7035.2665 to 7035.2805, and report to the legislative commission on waste management by January 1, 1990.

Minn. Laws ch. 70 (1989).

The report that followed recommended the changes that are proposed in this rulemaking:

> All proposals for change have in common some feature that lessens current local financial impact. Some proposals recommend lessening impacts only to the point at which all facility users share equally in the burden of long-term care. Other proposals go beyond this point, lowering short-term costs so much that there is an implicit increase in long-term costs. These proposals do not meet equity criteria. The MPCA finds that decreasing local financial impacts is an acceptable goal, so long as the pattern of cost incidence remains equitable.
>
> The MPCA proposes a rule amendment that would further lower financial impacts. The financial assurance rules require that cost estimates be made in current dollars. That is, estimates must assume that future dollars have value numerically equal to present dollars. This requirement derives from the financial assurance rules that apply to hazardous waste facilities, rules which were developed

> by the EPA. The EPA's recently proposed performance standards . . . allow cost estimates (to be) made in present value terms. That is, costs estimated for future periods can be discounted so that their values (are) economically equal to those of present dollars. The MPCA proposes to begin work on a rule amendment requiring that cost estimates be made in present value terms. This change would lower the local financial impact of the financial assurance rules.*

*"Alternatives within the Financial Assurance Rules," a report submitted by the Minnesota Pollution Control Agency to the Legislative Commission on Waste Management, January 1990, p. 83.

The rule amendments proposed here are the direct result of the findings of the January report. The proposed rules were drafted in July of this year. The proposed rule amendments were distributed for review and comment to a list of interested persons. Members of the Agency staff discussed the proposed rule amendments in meetings held throughout the state in September.

III. NEED FOR THE PROPOSED RULES

Minn. Stat. § 14.14, subd. 2 (1988) requires an agency to make an affirmative presentation of the facts establishing the need for and the reasonableness of the proposed rules. In general terms, this means that an agency must set forth the reasons for proposing rules and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists and requires administrative attention and reasonableness means that the solution proposed by the Agency is a proper one. The Agency will first address need.

The need for the proposed rule amendments arises from two sources:

1. Time has removed an important reason for requiring that cost estimates be made in terms of current dollars. Many provisions of the financial assurance rules were taken directly from established federal regulations for hazardous waste facilities. The practice of borrowing from federal regulation is a sensible one because it saves time. Borrowing from federal sources also develops state programs in close concert with federal programs. This makes it

easier for state programs to be certified by federal authorities. Federal certification allows states directly to administer programs, which often saves cost.

The U.S. Environmental Protection Agency (EPA) published proposed regulations for "Subtitle D" (solid waste) facilities in August of 1988. The proposed financial assurance provisions differed somewhat from the financial assurance rules for hazardous waste facilities (Federal Register, 8-30-1988, pp. 33347 - 51). The difference that matters most for this rulemaking involves the change to performance-based criteria for financial assurance regulations.

The hazardous waste facility rules are very specific in their requirements for financial assurance instruments. The rules include models that must be followed literally. No variation is allowed. In contrast, the proposed solid waste facility rules require that financial assurance regulations: 1) ensure coverage of identified costs, 2) ensure timely action, and 3) ensure continuous coverage from the time when the rules take effect or before a new facility first receives waste until the owner or operator is released from financial assurance responsibilities.

Discounted cost estimates for closure and postclosure care fall within the proposed federal criteria. Current rules require annual review and revision for plans and cost estimates (Minn. Rules pt. 7035.2685, subp. 2). As the date on which money will be needed approaches, the permittee and the Agency will be able to make more precise judgments on the adequacy of funds and the need for change in accrual rates. The entire process is designed to make sure that funds are adequate to meet estimated needs according to a planned schedule.

The change in EPA's financial assurance criteria eliminates the need for current dollar cost estimates.

2. The current dollar cost estimate distorts service prices. Landfill prices (usually called tipping fees) nearly always have to increase in order to get the added revenues needed for trust fund deposits. Landfill owners or operators base their price increases on the cost estimates made according to the requirements of the financial assurance rules.

Current dollar cost estimates overstate the value of future costs. A dollar received or spent in the future is worth less than a dollar received or spent today. The difference occurs because inflation changes the value of money and funds can be saved, invested and increased through interest earnings.

There is generally some amount of upward pressure on prices during any period. The economy has had very few times of deflation. This nearly constant price inflation means that a fixed amount of money saved now will buy less in the future. Interest compensates lenders and savers for potential inflationary losses and the risk of nonpayment. The presence of inflation and interest means that a person can always earn at least a minimal amount on a saved dollar. So a saved dollar alone is not worth as much as a current dollar. Interest earnings must be added to the saved dollar in order to make it equal in value to the current dollar.

Basing current accruals on current-valued cost estimates says, in effect, that future dollars and current dollars have equal values. When prices are set according to the current-valued cost estimate, current land disposal services are over-valued, or priced too high.

The proposed rule amendment is needed to correct this distortion in market prices.

IV. REASONABLENESS OF THE PROPOSED RULES

The Agency is required to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Minn. Stat. § 14.14, subd. 2 (1986). Reasonableness is the opposite of arbitrariness and capriciousness and means that there is a rational basis for the Agency's proposed action. The purpose of this section is to demonstrate that each provision is a reasonable approach to its defined function.

The discussion below addresses the reasonableness of the provisions of the rules that the Agency proposes to adopt or amend.

A. GENERAL DISCUSSION

The practice of adjusting future dollar values so that they are equivalent in value to present dollars is well established in the analytical methods used by engineers, accountants, financial analysts and economists:

> The concept that payments that differ in total magnitude buy that are made at different dates may be equivalent to one another is an important one in engineering economy. . . .
>
> The meaning of equivalence may be explained by using an analogy from algebra: If a number of things are equal to one thing, then they are equal to each other. Given an interest rate, we may say that any payment or series of payments that will repay a present sum of money with interest at that rate is equivalent to that present sum. Therefore, all future payments or series of payments that would repay the present sum with interest at the stated rate are equivalent to each other.
>
> Eugene L. Grant & W. Grant Ireson, Principles of Engineering Economy, 5th ed., 1970, pp. 30 - 31.

Discounting techniques are clearly not foreign to accounting as it is practiced today. Applications of discounting in practice include:

Notes Receivable and Payable -- Measuring the amount to be recorded initially for receivables and payables that have no stated interest rate or whose interest rate is different from the market rate, in the absence of established exchange prices for the related property, goods or service or evidence of the market value of the note.

Leases -- Measuring the initial value of assets to be recorded under long-term leases and measuring the amount of lease payments and amortization of leaseholds.

Business Combinations -- Measuring the initial value of receivables, payables, liabilities, accruals, and commitments acquired or assumed in a purchase business combination. Measuring the consideration given if the consideration is in the form of long-term liabilities.

Capital assets -- Measuring the initial value of assets acquired under deferred payment contracts.

Pensions -- Measuring the actuarially computed value of the obligation to provide future pension benefits.

Insurance Reserves -- Measuring the actuarially computed value of certain future policy and claim liabilities of insurance enterprises.

Capitalized Costs -- Measuring the value of future net revenues from estimated production of oil and gas reserves to be included in the full cost ceiling test.

Admittedly, those examples do not encompass all examples of the use of discounting in the current accounting literature. In face, a NAARS search of the accounting literature revealed many references to circumstances in which the concepts of discounting are used. The common characteristic that exists in all instances in which discounting currently is used in accounting practice is that the present value of future cash flows is considered the relevant attribute, or a surrogate therefor, in determining the amount to be initially recorded in the financial statements.

"The Use of Discounting in Financial Reporting for Monetary Items with Uncertain Terms Other than Those Covered by Existing Authoritative Literature," Issues Paper Presented by the Task Force on Discounting Applications, Accounting Standards Division, American Institute of Certified Public Accountants, No. 2439A.DA, September 9, 1987, pp. 10 - 12.

> In its simplest expression, a dollar currently in hand has a higher present worth than one promised to be available only after a time lapse. Similarly, the present value of benefits today is greater than equivalent benefits, reckoned in constant dollars, expected to be received in the future. The recognized method of obtaining the present value at any moment in time is to weight the net returns from an investment by a discount factor. The discounted value per dollar should ordinarily be larger for near term returns and smaller for those more distant.

John V. Krutilla & Antohony C. Fisher, The Economics of Natural Environments, 1975, p. 60.

[The reader should be aware that the terms "discounting" and "present value" are often used interchangeably. The terms should not strictly be considered as the same. "Discounting" is the procedure that is used to calculate the future value that makes a pending cost/payment equivalent to a current cost/payment. "Present value" is the term used to describe the result of discounting, e.g., "The present value of future costs is $X." However, although the two terms do not mean the same thing, a number of practitioners will use the terms interchangeably.]

Landfill closure and postclosure care cost estimates fit in well with criteria developed through conventional practice. These costs will be incurred at a future date that can be predicted with acceptable reliability. The value of those future costs should be discounted according to standard practice.

7035.2685 COST ESTIMATES FOR CLOSURE, POSTCLOSURE CARE AND CORRECTIVE ACTION.

Subpart 1. Cost estimate requirements.

This subpart sets standard methods for estimating the costs described. The subpart is now organized into three items that deal, respectively, with estimates for closure, postclosure care and corrective action. The proposed changes amend subitems A (closure) and B (postclosure care).

The proposed changes do not extend to cost estimates for corrective action. This is because the date on which corrective action will be needed cannot be estimated. Future values cannot be calculated unless there is a reference to the time period in which costs will be incurred. Corrective action costs may be incurred at any time during a landfill's operating life or during the postclosure care period. Therefore, it is not reasonable to discount corrective action cost estimates.

Item A. Closure costs.

The proposed amendment reorganizes this item and adds language to the item. An existing requirement relating to basic estimating assumptions is placed in its own subitem (1).

Subitem (2) sets standards for discounting closure cost estimates. The discounting step is only allowed to permittees who accrue cash reserves that earn interest. Permittees whose financial assurance programs do not earn interest have to work with current dollar cost estimates. The exclusion is made because the permittees excluded have chosen to account for future costs on a current dollar basis. They have either secured bonds or letters of credit that extend current dollar coverage or they have decided to use interest earned on cash accruals for purposes other than landfill closure. It is reasonable to exclude permittees who do not accrue interest earnings because the availability of interest earnings is the basis for discounting. Without that basis, discounting is invalid.

The method used to calculate present values is described in the form of an equation:

$$P = \frac{F}{(1 + i)^n}$$

in which: P = the present value,
F = the estimated cost of facility closure,
i = the interest rate, and
n = the time period in which the cost will be incurred, expressed as the number of years in the future.

An example will help demonstrate the reasons for the equation's form. Assume that Oliver wants a $100 loan from Stanley and promises to pay Stanley ten percent interest. The interest rate is the factor that equates the $100 Stanley lends today with the $110 Oliver repays next year. In this example, P = $100, F = $110, i = 0.10, and n = 1:

$$\$100 = \frac{\$110}{(1.1)1} = \frac{\$110}{1.1}$$

If Oliver wants the loan to last for two years, he will have to promise to repay $121:

$$\$100 = \frac{\$121}{(1.1)2} = \frac{\$121}{1.21}$$

This particular specification for the discounting calculation was taken from a standard engineering textbook (Eugene L. Grant & W. Grant Ireson, Principles of Engineering Economy, 5th ed., 1970, p. 34).

It is reasonable to specify the form for present value calculations so that all permittees will use the same method when discounting estimated closure costs. It is reasonable to use a form from a standard engineering text because this ensures that the method conforms with standard practice and most of the people who will make these calculations are engineers.

This subitem also specifies the source to be used in specifying a discount rate. The source is the Federal Reserve System, which sets interest rates for loans to member banks. This rate is usually referred to as "the discount rate" and it is published monthly in the Federal Reserve Bulletin.

The Federal Reserve System, usually known as the Fed, sets the nation's monetary policy. The Fed's control over policy is exercised through its control of the supply of money. The discount rate influences the money supply through its effect on interest rates charged throughout the economy. When the Fed changes the discount rate, member banks' borrowing costs change. These changes are reflected in consumer and business loans, as member banks either pass

through increased costs or pass on savings to their customers. The "ripple effect" reaches nearly all sectors of the national economy. The Fed is rather conservative in its exercise of monetary control, in large part because the effects of change are so extensive. This means that the discount rate set by the Fed does not change very often. This stability is one reason the Agency chooses to rely on the Fed's discount rate as the discount rate to be used in applying the proposed rule amendments.

Another reason for choosing the Fed's discount rate is the unsettled state of state of the debate over federal discount rate policy. Although the debate focuses on the correct rate to be used in evaluating federal projects, the issues raised are directly applicable to the matter of concern in this rulemaking. The reader is referred to a special issue of the Journal of Environmental Economics and Management (Volume 18, No. 2, 1990), which was devoted exclusively to the discount rate debate. Two authors provide good summaries of the status of the debate:

> All agree that discount rates, like all other prices, must be tailored to particular times, locations, types of projects and methods of financing. There seems to be general consensus that the benefit-cost procedures implied by the "shadow price of capital" approach are most defensible theoretically. While the complexities and sensitivities of that approach are intimidating, the derivation of special, simplified cases seems hopeful. Under current U.S. conditions, a real rate of about 2% seems to have support, but analysts must remain sensitive to the effects of methods of financing and type of project on this figure. A defensible philosophical basis for long term, intergenerational discounting has yet to be found.

Charles W. Howe, p. S-2.

> Despite an extensive literature, a consensus does not yet exist on an appropriate procedure for discounting the costs and benefits of government programs and regulations, nor on the choice of discount rates for use with any particular procedure.

Joel D. Scheraga, p. S-66.

The single correct discount rate cannot be defined for a number of reasons having to do with the variety of enterprises in the economy, the mobility of capital in international markets, current federal fiscal policies, and the multiplicity of capital markets. Absent clear guidance on a single, best rate, the Agency proposes to require permittees to use a standard rate that is both conservative and stable. The conservative rate is preferred because estimates may undervalue costs. The stable rate is preferred because price stability in the solid waste management service sector will promote orderly sectorial development.

The Fed discount rate is a reasonable choice for a standard rate because conservation and stability are reasonable criteria to use in the absence of authoritative evidence in favor of an optimal rate.

The period ("n") to be used in calculating present values is determined by the facility's design capacity. This requirement will ensure that accrued reserves closely match the demand for funds. Money to pay for final closure will not be needed until the facility uses up its permitted capacity. Annual closure plan review and adjustment will also help to match need and availability. This requirement is reasonable because it will help to make sure that accruals and prices are neither too high nor too low.

Item B. Postclosure care costs.

The provisions of the proposed amendments to this item are virtually the same as the provisions amended in item A. The rationale for these provisions is also the same.

The exception involves the specification of the discount period ("n"). This period was specified for closure costs in item A. The specification is unnecessary in this item because the postclosure care period begins right after closure. Once the date of closure is set, the date for beginning postclosure care is also set. It is reasonable to omit specification of the discount period for postclosure care costs because the specification is unnecessary.

V. SMALL BUSINESS IMPACTS

The Agency is required to consider the impacts of the proposed rules on small businesses:

> Subd. 1. Definition. For purposes of this section, "small business" means a business entity, including its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross sales of less than $4,000,000. For purposes of a specific rule, an agency may define small business to include more employees if necessary to adapt the rule to the needs and problems of small businesses.
>
> Subd. 2. Impact on small business. When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses as defined by this section, the agency shall consider each of the following methods for reducing the impact of the rule on small businesses:
>
> (a) the establishment of less stringent compliance or reporting requirements for small businesses;
>
> (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
>
> (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
>
> (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
>
> (e) the exemption of small businesses from any or all requirements of the rule.
>
> In its statement of need and reasonableness, the agency shall document how it has considered these methods and results.

> Subd. 3. Feasibility. The agency shall incorporate into the proposed rule or amendment any of the methods specified under subdivision 2 that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking.

Minn. Stat. § 14.115 (1986).

Nearly all privately-owned solid waste management facilities in Minnesota qualify as small businesses under the definition in subdivision 1. Because few firms are disqualified, the Agency considers that the proposed amendments affect primarily small businesses. Because of this, small businesses cannot be exempted from some or all of the proposed amendments.

The net effect of the proposed amendments will be to lower operating costs. Discounted cost estimates will be lower than current-valued cost estimates. This means lower cash accruals for trust funds which can be translated into lower service prices or higher profits. The lowering of service prices is the expected outcome because competition and local government vigilance are likely to cause savings to be passed on to customers.

There is no justification in either the theory of discounting or in standard practice to justify a discount rate difference between small and large businesses. The proposed amendments will require permittees to demonstrate that they have applied correctly the discounting procedures set in the rule. This will require some extra work, but the added cost will be only a small fraction of the cash savings realized from discounting.

The Agency believes that the proposed rule amendments meet the requirements of Minn. Stat. § 14.115. The rules accommodate small business concerns without compromising the environmental values that are the rules' policy foundation.

VI. ECONOMIC CONSIDERATIONS

The Agency is required to take economic matters into account in its rulemaking activities:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

Minn. Stat. § 116.07, subd. 6.

This law has general applicability to all actions of the Agency. In the rulemaking context, this law has been interpreted by the Agency to mean that, in determining whether to adopt proposed rules or amendments, the Agency must consider, among other evidence, the impact which economic factors may have on the feasibility and practicability of the proposed rules or amendments. In the Proposed Revision to Minn. Rule APC 1, 6 MCAR § 4.0001. Relating to Ambient Air Quality Standards, the Agency discussed the requirements of Minn. Stat. § 116.07, subd. 6 as follows:

> In order for the Agency to duly consider economic factors when it determines whether to adopt the amendments to Minn. Rule APC 1, the record upon which the Agency will make its determination must include data on the economic impacts of those amendments. These economic impacts, however, need not be quantified with absolute certainty in order to be considered. Further, these economic impacts may include costs other than the cost of complying with a proposed rule. For instance, material losses, crop losses, health costs, and impacts on tourism are also economic factors that should be duly considered by the Agency in determining whether to adopt the amendments to Minn. Rule APC 1.

Public policy decisions must weigh the values of competing goals. The law and the administrative interpretation cited show that the legislature and the Agency recognize the need to take into account different, sometimes competing, goals when setting environmental policy. Budget constraints in all economic sectors and at all income levels require decision makers to choose among

programs and projects that compete for scarce budget resources.

The order is a cautionary note telling the Agency to be mindful of economic and financial limits. The Agency's daily business is to serve the public in the protection and improvement of Minnesota's air, water and land resources by: assessing the state's environmental status; regulating the quality of these resources; assisting local government, industry and individuals in meeting their environmental responsibilities; and implementing strategies that will protect and enhance public health and the State's environment.

This work is not done without cost. Environmental laws and regulations impose costs on people, businesses and other institutions. Some of the state's economic capacity must be devoted to environmental protection. The Agency is directed to take care that environmental regulations do not strain the limits of available economic resources. The Agency generally takes this directive a step further, seeking least-cost regulatory solutions over affordable ones if the least-cost solution does not compromise environmental goals.

The proposed amendments are presented in this spirit. The change in federal position on financial assurance made possible the proposed change in cost estimating methods. This proposed change should be unambiguously beneficial for regulated firms and governments. The discounted cost estimates will be lower than current-valued cost estimates. This should lead, in most cases, to lower prices for landfill services. As noted in the previous section, the savings are expected to be passed on to waste generators. The resulting increase in disposable income should prove beneficial to regional economies.

It should be noted that the proposed amendments will not stimulate an economic boom. The likely beneficial impacts are not expected to be great enough to cause a noticeable increase in output or employment.

VII. IMPACTS ON AGRICULTURAL LANDS

The Agency is required to consider the impacts of proposed rules on agricultural lands:

> If the Agency proposing the adoption of the rule determines that the rule may have a direct and substantial adverse impact on agricultural land in the state, the Agency shall comply with the requirements of sections 17.80 to 17.84.

Minn. Stat. § 14.11, subd. 2 (1988).

The definition of adverse impact which applies in this case is:

> "Action which adversely affects" means any of the following actions taken in respect to agricultural land which have or would have the effect of substantially restricting the agricultural use of the land: (1) acquisition for a nonagricultural use except acquisition for any unit of the outdoor recreation system described in section 86A.05, other than a trail described in subdivision 4 of that section; (2) granting of a permit, license, franchise or other official authorization for nonagricultural use; (3) lease of state-owned land for nonagricultural use except for mineral exploration or mining; or (4) granting or loaning of state funds for purposes which are not consistent with agricultural use.

Minn. Stat. § 17.81, subd. 2 (1988).

The legislature has set agricultural land policies that guide administrative agencies' rulemaking efforts and determinations of adverse impact:

> It is the policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products by:
>
> (a) Protection of agricultural land and certain parcels of open space land from conversion to other uses;
> (b) Conservation and enhancement of soil and water resources to ensure their long-term quality and productivity;
> (c) Encouragement of planned growth and

development of urban and rural areas to ensure the most effective use of agricultural land, resources and capital; and

(d) Fostering of ownership and operation of agricultural land by resident farmers.

Minn. Stat. § 17.80, subd. 1 (1988).

The legislature has set agricultural land policies that guide administrative agencies' rulemaking efforts and determinations of adverse impact:

> It is the policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products by:
>
> (a) Protection of agricultural land and certain parcels of open space land from conversion to other uses;
>
> (b) Conservation and enhancement of soil and water resources to ensure their long-term quality and productivity;
>
> (c) Encouragement of planned growth and development of urban and rural areas to ensure the most effective use of agricultural land, resources and capital; and
>
> (d) Fostering of ownership and operation of agricultural land by resident farmers.

Minn. Stat. § 17.80, subd. 1 (1988).

The Agency finds that the proposed rules will not cause any adverse impacts on agricultural lands. The proposed rule amendments apply to cost estimates made by owners or operators of mixed municipal solid waste land disposal facilities. Some farm firms may realize slight decreases in solid waste disposal costs, but the impact should not be great enough to affect the amount of land in farms or any of the other measures defined by law.

VIII. CONCLUSION

The Agency staff has in this document made its presentation of facts establishing the need for and reasonableness of the proposed rule amendments governing the estimation of closure and postclosure care costs at mixed municipal solid waste land disposal facilities. This document constitutes the Agency's statement of need and reasonableness for the proposed rule amendments.

Based on the foregoing, the proposed changes to Minn. Rules pt. 7035.2685 are both needed and reasonable.

Dated: _____, 1990

_____

Gerald L. Willet

Commissioner

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

PUBLIC RESOURCES SECTION
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075
FACSIMILE: (612) 297-4139

March 11, 1991

RECEIVED
MAR 12 1991
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

Christie B. Eller
Assistant Attorney General
Office of the Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Re: In the Matter of the Proposed Amendments of Rules Governing Financial Assurance for Solid Waste Land Disposal Facilities, Minn. Rules pt. 7035.2685, subp. 1

Dear Ms. Eller:

On February 26, 1991, the Minnesota Pollution Control Agency adopted the above-captioned rule amendments governing financial assurance for land disposal facilities. Enclosed for your review are the following:

1. Notice of Intent to Solicit Outside Opinion (14 S.R. 2895, June 11, 1990).

2. Certificate of Agency's Authorizing Resolution.

3. Rules as proposed with Revisor's certificate.

4. Notice of Intent to Adopt Rule Amendments Without a Public Hearing, as mailed.

5. Affidavit of Mailing the Notice of Intent to Adopt Rule Amendments Without a Public Hearing and Certificate of Mailing List.

6. Statement of Need and Reasonableness.

7. Notice of Intent to Adopt Rule Amendments Without a Public Hearing and rule amendments as proposed (15 S.R. 1120-1122, November 13, 1990).

8. Notice of Extension of Public Comment Period (15 S.R. 1371).

9. Affidavit of Mailing the Notice of Extension of Public Comment Period and Certificate of Mailing List.

10. Comments received during the comment period.

11. Rules as adopted (original and three copies).

12. Certificate of Resolution Adopting Rules.

13. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

14. Because no requests were received for a Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General, it is not included. Therefore, no Affidavit of Mailing of Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General is included.

15. Declaration of Counsel.

Very truly yours,

DWIGHT S. WAGENIUS
Special Assistant
Attorney General

Environmental Protection
Division

DSW:jlm:AI1

Enclosures

Stat Authority

116.07 subd 4

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose . . .

end of 1st comment peiod stated as Dec 13, 1990

extended comment period to January 9, 1991

had 30 day comment period on 1st comment peiod

Department of Labor & Industry

Labor Standards Division

Notice of Prevailing Wage Determinations for Highway/Heavy and Commercial Projects

On June 11, 1990 the commissioner certified prevailing wage rates for commercial and highway/heavy construction projects in the following Minnesota counties: **Anoka, Benton, Big Stone, Carver, Chippewa, Chisago, Dakota, Douglas, Grant, Hennepin, Isanti, Kanabec, Kandiyohi, McLeod, Meeker, Mille Lacs, Morrison, Pine, Pope, Ramsey, Scott, Sherburne, Stearns, Stevens, Swift, Todd, Traverse, Washington, Wright.**

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are $.50 for the first county and $.30 for any subsequent copies of the same or other counties. The cost for a complete set of the above counties will be $15.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Ken Peterson, Commissioner
Department of Labor and Industry

Pollution Control Agency

Division of Ground Water and Solid Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Financial Assurance for Solid Waste Land Disposal Facilities

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from outside sources in preparing to propose the amendment of rules governing financial assurance for solid waste land disposal facilities (*Minnesota Rules* Parts 7035.2705 to 7035.2805). The amendment of this rule is authorized by *Minnesota Statutes* § 116.07, subd. 4h (1990), which requires the Agency to adopt rules relating to financial responsibility.

The Agency requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Robert McCarron
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: (612) 296-7324

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until September 30, 1990. Any written materials received by the Agency shall become part of the rulemaking record in the event that the rules are amended.

Gerald L. Willet
Commissioner

Pollution Control Agency

Division of Air Quality

Notice of Intent to Solicit Outside Information Regarding Proposed Rules Governing Standards of Performance for Motor Vehicles (*Minnesota Rules* Pts. 7005.1150-7005.1190)

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or comments from outside sources in preparing to propose the amendment of rules governing Standards of Performance for Motor Vehicles, *Minnesota Rules* Pts. 7005.1150-7005.1190, to be consistent with *Minnesota Statutes* § 325E.0951 Motor Vehicle Air Pollution Control Systems, and to address federal and state enforcement concerns. The amendment of the rule is authorized by *Minnesota Statutes* § 116.07 (1988), which authorizes the MPCA to adopt and amend rules for the prevention, abatement, or control of air pollution.

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 23rd day of October 1990, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt without a public hearing, the attached amendments to rules, Minn. Rules pt. 7035.2685, to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1988).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Minnesota Pollution Control Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25 day of October, 1990.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Ground Water & Solid Waste Division
Program Development Section

File Name

Sub File Name

Initial NOTICE OF INTENT TO ~~ADOPT RULES WITHOUT A PUBLIC HEARING~~

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of Proposed Amendments
to Rules Governing Financial Assurance
for Solid Waste Land Disposal Facilities,
Minn. Rules Pt. 7035.2685, Subp. 1

(1) Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1988). The Agency's authority to adopt the rule is set forth in Minn. Stat. § 116.07, subd. 4h (1988) (amended by Minn. Laws 1989, chapter 604, article 10, § 6).

(2) All persons have until 4:30 p.m. on December 12, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. (3) Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. (4) If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

(7) If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

(5) Comments or written requests for a public hearing must be submitted to:

Robert McCarron
Minnesota Pollution Control Agency
Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, Minnesota 55155-3898
612/296-7324

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

(11) The proposed rules, if adopted, will allow estimates of future costs to be discounted. A copy of the proposed rules is enclosed.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Robert McCarron upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988, supp. 1989), "Small business considerations in rulemaking," that the proposed rules will have a positive effect on small businesses. The proposed amendments will lower the current amount of savings required to meet future closure and postclosure care expenses.

You are hereby advised, pursuant to Minn. Stat. § 116.07, subd. 6 (1988), "Economic considerations," that the proposed amendments will not have a noticeable effect on economic conditions in the state. There will be some cost savings in the solid waste management sector, but the savings will not be large enough to cause large impacts outside the sector.

You are hereby advised, pursuant to Minn. Stat. § 14.11, subd. 2 (1988), "Agricultural lands," that the proposed amendments will not have an effect on the supply of land for agriculture. The proposed amendments deal with solid waste land disposal and are not expected to impose secondary costs high enough to affect agricultural land values.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Robert McCarron.

Dated: 10-25-90 Gerald L. Willet
GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing Financial Assurance for Solid Waste Land Disposal Facilities, Minn. Rules Parts 7035.2685

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michelle K Stryker, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a. and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 3 day of Dec, 1990.

That on the 9 day of Nov, 1990, at the city of St. Paul, county of Ramsey, state of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the state of Minnesota Central Mail System or in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Michelle K Stryker

Subscribed and sworn to before me
this 3rd day of December, 1990.

Jodi D. Rasmuss
Notary Public

JODI D. RASMUSSEN
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 10-23-94

Subp. 7. **Director's final decision.** Within 30 days of providing notice of intent to review the decision reported under subpart 3, the director shall make a final decision and provide a full report in writing of the decision, and of the findings and grounds for the decision, to the appellant or, if appropriate, the appellant's representative. The director shall not delegate this responsibility to any other person. The report shall inform the appellant of the right to judicial review of the director's decision.

Subp. 8. **Time extension.** Except for the time limitations in subpart 4, both parties may agree upon reasonable time extensions for good cause.

REPEALER. *Minnesota Rules,* parts 3325.0100, subpart 4; 3325.0110, subparts 22, 42, 69, 73, 74, and 76; 3325.0160; 3325.0230; 3325.0300; 3325.0370; and 3325.0460, subparts 3, 5, and 7, are repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Financial Assurance for Solid Waste Disposal Facilities

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.07, subd. 4h (1988) (amended by *Minnesota Laws 1989*, chapter 604, article 10, § 6).

All persons have until 4:30 p.m. on December 12, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed.

If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

Comments or written requests for a public hearing must be submitted to:

Robert McCarron
Minnesota Pollution Control Agency
Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, Minnesota 55155-3898
612/296-7324

The proposed rules may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule as noticed.

The proposed rules, if adopted, will allow estimates of future costs to be discounted. The proposed rules are published below. One free copy of the rules is available upon request from Robert McCarron at the address and telephone number stated above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Robert McCarron upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988, supp. 1989), "Small business considerations in rulemaking," that the proposed rules will have a positive effect on small businesses. The proposed amendments will lower the current amount of savings required to meet future closure and postclosure care expenses.

You are hereby advised, pursuant to *Minnesota Statutes* § 116.07, subd. 6 (1988), "Economic considerations," that the proposed amendments will not have a noticeable effect on economic conditions in the state. There will be some cost savings in the solid waste management sector, but the savings will not be large enough to cause large impacts outside the sector.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.11, subd. 2 (1988), "Agricultural lands," that the proposed amendments will not have an effect on the supply of land for agriculture. The proposed amendments deal with solid waste land disposal and are not expected to impose secondary costs high enough to affect agricultural land values.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney

General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Robert McCarron.

Gerald L. Willet
Commissioner

Rules as Proposed

7035.2685 COST ESTIMATES FOR CLOSURE, POSTCLOSURE CARE, AND CORRECTIVE ACTION.

Subpart 1. **Cost estimate requirements.** The following provisions apply to cost estimates.

A. The owner or operator shall make a written estimate, in current dollars, of the cost of closing the facility in accordance with part 7035.2625 and applicable closure requirements in part 7035.2635. The estimate must be calculated according to subitems (1) and (2).

(1) The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

(2) An owner or operator who establishes a trust under part 7035.2705 or 7035.2715 or a dedicated long-term care trust fund under part 7035.2720 may make the closure cost estimate in present value terms, provided that interest earned from investment becomes part of the fund.

The method used to calculate a present value for closure cost estimates must have the following form:

$$P = \frac{F}{(1 + i)^n}$$

in which: P = the present value,
F = the estimated cost of facility closure as calculated under subitem (1),
i = the interest rate, and
n = the time period in which the design capacity of the facility is filled, expressed as the number of years after the date on which the cost estimate is made.

The interest rate used must be the Federal Reserve Bank discount rate in effect at the Federal Reserve Bank in Minneapolis, Minnesota.

B. The owner or operator of a facility subject to postclosure monitoring or maintenance requirements shall make a written estimate, in current dollars, of the annual cost of monitoring and maintenance of the facility in accordance with the applicable postclosure requirements in part 7035.2645. The estimate must be calculated according to subitems (1) and (2).

(1) The owner or operator must calculate the postclosure cost estimate by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under part 7035.2655. The postclosure cost estimate must include a contingency element that accounts for inflation expected to occur after site closure.

(2) An owner or operator who establishes a trust under part 7035.2705 or 7035.2715 or a dedicated long-term care trust fund under part 7035.2720 may make the postclosure cost estimate in present value terms, provided that interest earned from investment becomes part of the fund.

A present value must be reported for each year of the postclosure care period. The time periods used must begin the year after facility closure. The method used to calculate a present value must have the following form:

$$P = \frac{F}{(1 + i)^n}$$

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

in which: P = the present value,
F = the estimated cost of postclosure care and maintenance during the year in which cost will be incurred as calculated under subitem (1),
i = the interest rate, and
n = the time period in which the cost will be incurred, expressed as the number of years after the date on which the cost estimate is made.

The interest rate used must be the Federal Reserve Bank discount rate in effect at the Federal Reserve Bank in Minneapolis, Minnesota.

[For text of item C, see M.R.]

[For text of subps 2 and 3, see M.R.]

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Labor and Industry

Adopted Revisions to the Occupational Safety and Health Standards

The rules proposed and published at *State Register* Volume 15, Number 13, dated September 24, 1990 (15 S.R. 726) are adopted as proposed.

Standards as Adopted

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

[For text of subpart 1, see M.R.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978, and corrected in Volume 43, No. 216 on November 7, 1978, which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes made prior to September 1, 1990:

[For text of items A to L, see M.R.]

M. *Federal Register*, Vol. 55:

[For text of subitems (1) to (4), see M.R.]

(5) *Federal Register*, Vol. 55, No. 30, dated February 13, 1990: "Occupational Exposure to Lead; Corrections to Final Rule Statement of Reasons and Amendment to Appendix B."

[For text of subitems (6) to (9), see M.R.]

(10) *Federal Register*, Vol. 55, No. 90, dated May 9, 1990: "Air Contaminants (1910.1000), Final Rule; Grant of Petition for Reconsideration and Stays for Two Substances."

(11) *Federal Register*, Vol. 55, No. 111, dated June 8, 1990: "Air Contaminants (1910.1000), Correction to Final Rule."

Minnesota Pollution Control Agency

Ground Water and Solid Waste Division

Amended Rules Governing Financial Assurance for Solid Waste Land Disposal Facilities, Minn. Rules Pt. 7035.2685, Subpart 1

Notice of Extension of Public Comment Period

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) is extending the public comment period for the amended rules governing financial assurance for solid waste land disposal facilities. A Notice of Intent to Adopt Rules Without a Public Hearing and the rule amendments were published in the State Register on November 13, 1990 (15 S.R. 1120). All persons were informed that the Agency would accept written comments on the rule amendments until 4:30 p.m., December 12, 1990. The Agency is now extending the public comment period until 4:30 p.m., January 9, 1991. Comments or questions relating to the proposed rules should be directed to:

Robert McCarron
Minnesota Pollution Control Agency
Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, Minnesota 55155-3898
612/296-7324 or 1-800-652-9747 (Minnesota Toll-Free)

for Gerald L. Willet
Commissioner

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing Financial Assurance for Solid Waste Land Disposal Facilities, Minn. Rules Parts 7035.2685, Subd. 1

AFFIDAVIT OF MAILING THE NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Michelle K Stryker, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a. and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of the seventh day of December, 1990.

That on the seventh day of December, 1990, at the city of St. Paul, county of Ramsey, state of Minnesota, I mailed the attached Notice of Extension of the Public Comment Period by depositing in the state of Minnesota Central Mail System or in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on theafore mentioned mailing list.

Michelle K Stryker

Subscribed and sworn to before me
this 11 day of Dec, 1990.

Diane Fox
Notary Public

DIANE FOX
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 2-25-96

FILE COPY

SOLID WASTE MANAGEMENT DEPARTMENT
Kevin T. Dixon, Director
(507) 457-6460

Winona County Courthouse
171 West Third Street
Winona, MN 55987

January 8, 1991

Robert McCarron
Minnesota Pollution Control Agency
Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, MN 55155-3898

Dear Mr. McCarron:

I am writing to comment on the proposed rule amendment relating to Financial Assurance for Solid Waste Disposal Facilities.

The proposed rules will allow estimates of future costs to be discounted using the time value of money. Present value techniques are used in various business and accounting applications. They are used in notes, leases, bonds, and installment contracts to mention a few. The time value of money in this scenario is very important because the future closure and postclosure costs are known, but no consideration was made for interest earned and accumulated on the present amount set aside and accumulating in the trust funds.

The two sections I wish to comment on are Minnesota Rules part 7035.2685 subpart 1 (A) subdivision 2 and subpart 1 (B) subdivision 2. These two areas address closure and postclosure costs in present value terms using the formula in the rules. The two areas also address the issue that interest earned on the monies in a trust under part 7035.2705 or 7035.2715 or a dedicated long-term care trust fund under part 7035.2720 must become part of the fund. These two items are a positive rule amendment.

Sincerely,

Linda L. Milburn

Linda Milburn
Accountant

635/mah

cc: Kevin T. Dixon, Solid Waste Director

An Equal Opportunity / Affirmative Action Employer

KANDIYOHI COUNTY BOARD OF COMMISSIONERS
P.O. Box 936
Kandiyohi County Courthouse
Willmar, Minnesota 56201

RECEIVED
JAN 07 91
MPCA, Ground Water
& Solid Waste Div.

Howard Christiansen
1st District

Ken Nielsen
2nd District

Earl Larson
3rd District

Stanley Block
4th District

Richard Post
5th District

Wayne Thompson
County Coordinator
612-231-6215

January 3, 1991

Robert McCarron
Minnesota Pollution Control Agency
Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, MN 55155-3898

RE: Rules as Proposed 7035.2685
Cost Estimates for Closure, Postclosure Care,
Corrective Action for Solid Waste Disposal Facilities

Dear Mr. McCarron:

Kandiyohi County has reviewed the proposed method or equation for calculating landfill closure costs estimates for purposes of determining financial assurance requirements for landfill owners and operators. Regardless of the method, financial assurance requirements mandated upon counties for landfill disposal facilities is an unneccessary financial burden on the taxpayers of this state.

Placing large sums of money in a long-term trust on the notion that something may happen is a luxury that the taxpayers can ill afford. Its time that the State agencies realize that the 1.8 billion dollar projected State shortfall will also affect counties and now is not the time to mandate unneccessary financial requirements on political subdivisions of the State. Furthermore, counties are not "fly by night" operations that are here today and gone tomorrow. Unless the State decides otherwise, counties are assured of being there when and if postclosure actions are required.

Kandiyohi County's landfill budget for 1991 is $1,845,000.00 compared to $422,000.00 for calendar year 1990. This 1.4 million dollar increase is the direct result of MPCA's solid waste rules. Surely the citizens and the environment of this county would be better served if the financial assurance dollars were directed into capital improvements to improve solid waste management.

The County of Kandiyohi does not discriminate on the basis of race, color, national origin, sex, religion, age and handicapped status in employment or the provision of services.

Kandiyohi County hereby requests that the proposed rules regarding financial assurance be eliminated for all political subdivisions created by the State of Minnesota.

Sincerely,

Wayne Thompson

Wayne Thompson
County Coordinator

WT:mj

pc: Governor Elect Arne Carlson
Senator Dean E. Johnson
Senator John Bernhagen
Representative Alan Welle
Representative Roger Cooper
Kandiyohi County Board of Commissioners

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Financial Assurance for Solid Waste Land Disposal Facilities, Minn. Rules Pt. 7035.2685, Subp. 1

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 26th day of February 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on November 13, 1990 (15 S.R. 1120), and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1 (a) and 14.22 (1988) on November 9, 1990. In addition, another notice extending the public comment period was published in the State Register on December 10, 1990 (15 S.R. 1371), and was sent by mail on December 7, 1990, to all persons who received the initial rule notice.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule amendments for 57 days after notice of proposed rulemaking. The 57-day comment period, as set out in the December 10, 1990, notice, expired on January 9, 1991.

4. During the comment period the MPCA received no requests for public hearing. Therefore, the MPCA did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. No requests for notice of submission of the adopted rule amendments to the Attorney General were received by the MPCA.

6. During the comment period the MPCA received two written comment letters. The MPCA finds that no modification to the proposed rule amendments is justified by the record in this proceeding.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendments are needed and reasonable.

CONCLUSIONS

1. The MPCA duly acquired and has jurisdiction over this proceeding.

2. The MPCA published and served due, timely, and adequate notice of the intent to adopt the rule amendments without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pt. 7035.2685, subp. 1 governing Financial Assurance for Solid Waste Land Disposal Facilities are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4h (1990).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 2/26/91

Charles W. Williams
Commissioner

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule Amendments Governing Financial Assurance for Solid Waste Land Disposal Facilities, Minn. Rules Pt. 7035.2685, Subp. 1

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 26th day of February 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on November 13, 1990 (15 S.R. 1120), and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1 (a) and 14.22 (1988) on November 9, 1990. In addition, another notice extending the public comment period was published in the State Register on December 10, 1990 (15 S.R. 1371), and was sent by mail on December 7, 1990, to all persons who received the initial rule notice.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule amendments for 57 days after notice of proposed rulemaking. The 57-day comment period, as set out in the December 10, 1990, notice, expired on January 9, 1991.

4. During the comment period the MPCA received no requests for public hearing. Therefore, the MPCA did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. No requests for notice of submission of the adopted rule amendments to the Attorney General were received by the MPCA.

6. During the comment period the MPCA received two written comment letters. The MPCA finds that no modification to the proposed rule amendments is justified by the record in this proceeding.

7. The MPCA adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The MPCA hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule amendments are needed and reasonable.

CONCLUSIONS

1. The MPCA duly acquired and has jurisdiction over this proceeding.

2. The MPCA published and served due, timely, and adequate notice of the intent to adopt the rule amendments without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pt. 7035.2685, subp. 1 governing Financial Assurance for Solid Waste Land Disposal Facilities are adopted pursuant to the authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4h (1990).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 2/26/91

Charles W. Williams
Commissioner

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Charles W. Williams, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 26th day of February 1991, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

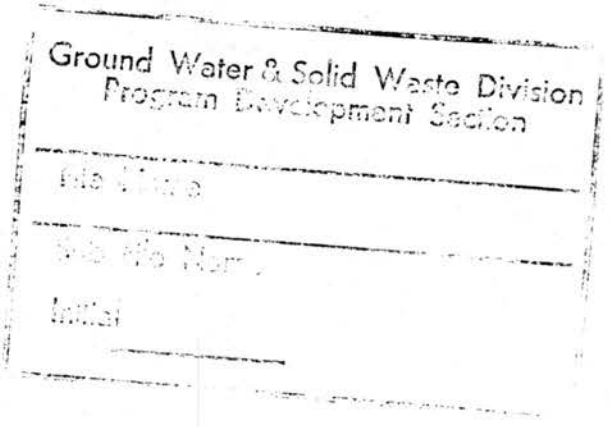
BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts the attached amendments to the Minnesota Pollution Control Agency's rules governing financial assurance at land disposal facilities, Minn. Rules pt. 7035.2685, subp. 1, pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.07, subd. 4h (1990).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes to the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's Certification required by Minn. Stat. § 14.07, subd. 2 (1990).

BE IT FURTHER RESOLVED, that the Minnesota Pollution Control Agency adopts the Findings of Fact, Conclusions, and Order Adopting Rule Amendments and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Minnesota Pollution Control Agency and to perform the necessary acts to provide that the rule amendments shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26 day of Feb 1991.

Charles W. Williams
Commissioner



STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule
Amendments Governing Financial Assurance
for Solid Waste Land Disposal Facilities,
Minn. Rules Pt. 7035.2685, Subp. 1

DECLARATION OF COUNSEL

I, Dwight S. Wagenius, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minn. Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0696.

Dwight S. Wagenius
Special Assistant
Attorney General

91/03/11